IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.13761 OF 2007
AND
M.P.NO.1 OF 2007

N.Rajan .. Petitioner

Vs.

1.The District Collector,
Coimbatore District,
Coimbatore.
2.The Special Tahsildar (Stamps),
RDO Office Compound,
Kumaran Road, Tiruppur.
3.The Sub Registrar,
Joint II SRO-Tiruppur,
Tiruppur. .. Respondents

This writ petition has been preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus for a direction to the respondent to release the petitioner's sale deed, dated 21.8.1998 registered as document No.2042/98 in the office of the 3rd respondent pertaining to the property situated at 24th ward, Tirupur Town, Tirupur Taluk comprised in Old S.F.No.9/1D, New S.R.No.8/1D, measuring 15181 ¼ sq. ft.

For Petitioner : Mr.S.S.Swaminathan
For Respondents: Mr.N.Senthilkumar, AGP

ORDER

The petitioner herein seeks a writ of mandamus for a direction to the respondents to release the petitioner's sale deed, dated 21.8.1998 registered as document No.2042/98 in the office of the 3rd respondent pertaining to the property situated at 24th ward, Tirupur Town, Tirupur Taluk comprised in Old S.F.No.9/1D, New S.R.No.8/1D, measuring 15181 ¼ sq. ft.

2.The affidavit filed in support of the petition is perused. The court heard the learned counsel on either side.

3.The case of the petitioner in short, as could be seen from the averments and also the submissions made by the learned counsel, is that the petitioner purchased the property, measuring 15181 ¼ sq.ft. situated at 24th ward, Tirupur Town in Old S.F.No.9/1D, New S.R.No.8/1D by sale deed, dated 21.8.1998 and the same was registered before the Joint II SRO, Tiruppur; that the petitioner was put in possession and enjoyment of the property; that he approached the third respondent to get the original sale

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deed; that he was informed that the sale deed was insufficiently stamped and proceedings would be initiated for under-valuation and the same would be communicated to him, but he has not received any notice from the authority; that there was no under valuation of the document; that under Section 47-A of the Indian Stamp Act, if there is any under valuation in the document, the registering Officer shall make a reference to the Collector for determination of market value of the property and for the proper duty payable thereon and only on receipt of such reference, the Collector has to determine the market value of the property for the purpose of payment of proper duty by way of enquiry after giving an opportunity to the concerned person; that in the instant case, nothing has been taken place; that after many representations, a detailed representation was given on 18.3.2003 to the second respondent, expressing willingness to pay the stamp duty payable pursuant to the alleged under valuation of the sale deed and to receive back the same; that even then, nothing has happened yet and under these circumstances, this writ petition has been brought forth before this court. Further, it is a fit case where a direction has got to be given to the second respondent to fix the market value and also the stamp duty payable and also for a direction to the third respondent to release the document.

4.The court heard the learned counsel for the respondents on the above contentions.

5.Concedingly, the sale deed, dated 21.8.1998 was actually registered by the Joint II SRO, Tiruppur in respect of the immovable property purchased by the petitioner herein. The document was not released, in view of the alleged under valuation and insufficiency of stamp duty paid. Under these circumstances, a reference has been made and now the matter is pending in the hands of the second respondent. Though representations were made, neither they have been considered nor the document was released. Under these circumstances, it would be fit and proper to issue a direction to the second respondent, namely the Special Tahsildar (Stamps), RDO Office Compound, Tiruppur, to fix the market value of the property and also the stamp duty payable and also inform to the petitioner for payment within the stipulated time and the second respondent could also instruct the third respondent to release the document.

6.Accordingly, the second respondent is directed to consider the representation of the petitioner, fix the market value of the property and also the stamp duty payable thereon and intimate the same to the petitioner within a period of eight weeks herefrom. On such communication, the petitioner has to necessarily make payment of deficit stamp duty. Thereafter, the second respondent has to necessarily instruct the third respondent to release the document. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected MP is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Special Tahsildar (Stamps),
RDO Office Compound,
Kumaran Road,
Tiruppur.

3.The Sub Registrar,
Joint II SRO-Tiruppur,
Tiruppur.

1 CC to the Government Pleader, SR NO.56808.
1 CC To Mr.S.S.Swaminathan, Advocate, SR NO.57097.

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BVR(CO)
RVL 18.09.2007

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